

APPEAL NO. 033026
FILED JANUARY 5, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 8, 2003. With respect to the issues before her, the hearing officer determined that the respondent (claimant) had disability from November 26, 2002, to April 7, 2003, as a result of his _____, compensable injury and that he is entitled to change treating doctors to Dr. C pursuant to Section 408.022. In its appeal, the appellant (carrier) asserts error in each of those determinations and also asserts evidentiary error. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

In its appeal, the carrier asserts that it received a copy of the hearing officer's decision on October 27, 2003. However, records of the Texas Workers' Compensation Commission (Commission) indicate that the carrier's representative acknowledged receipt of the hearing officer's decision on October 23, 2003. As provided in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(c) (Rule 156.1(c)), "[a]ny notice from the Commission, sent to the designated representative, is notice from the Commission to the insurance carrier." Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202(d) was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Fifteen days from the carrier's receipt of the hearing officer's decision was November 14, 2003. The carrier's appeal was sent by facsimile transmission and was sent by certified mail on November 18, 2003, and, therefore, was not timely filed.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **THE CINCINNATI INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge